

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**COMMODITY FUTURES TRADING
COMMISSION,**

Plaintiff,

v.

**EDDY ALEXANDRE and
EMINIFX, INC.,**

Defendants.

Case No.: 22-cv-3822

Judge Caproni

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MEMO ENDORSED

**MOTION TO OPPOSE THE ADOPTION OF THE FIRST QUARTER 2024
OR EIGHTH STATUS REPORT FROM THE EMINIFX RECEIVERSHIP FOR DEFECTS
AND MOTION TO STAY THE APPROVAL OF HIS APPLICATION FOR PAYMENT**

NOW COMES, Eddy Alexandre, ("Mr. Alexandre", the "Defendant"), pro se, hereby submits this motion to the court in response to the Receiver's Eighth Status report and Application for payment; to oppose the adoption of the Eighth Status Report(2024) of the Receiver of EminiFX, Inc.; to deny his application for payment for failure to honor the due process clause by submitting all the invoices for billing under "SEAL" and failure to provide adequate financial data for fair chance of revision and opposition in dealing with conflict of interests, falsification of business records, and/or the deprivation of property without regards to property interests of the Defendants (Mr. Alexandre, and EminiFX) and the investors' FUNDS.

The assertions in the Status Reports were developed without the benefit of adversarial litigation and therefore, as the Receiver acknowledged in the submission, "illustratives"-"NON-GAAP" compliant, subject to revision over time. As explained below, Mr. Alexandre has supported the Receiver's efforts to preserve the status quo pending litigation in this instant action and the related criminal prosecution in the United States v. Alexandre, No. 22 Cr. 326 (JPC). Mr. Alexandre looks forward to an opportunity to be heard on the merits in this case, as demonstrated with his Motion To Dismiss before this Court, including with respect to deficiencies in the investigation or lack of thereof that resulted in significant restraints and harm on assets belonging to EminiFX, EminiFX members while both of these cases were pending and up until now that this civil action is still pending.

GENERAL STATEMENTS

1- EminiFX is a modern "Investment Club" taking advantage of the Digital Assets Portfolios combining Finance and Technology (FINTECH) to promote "Digital Packages" as a shared profit vehicle to the average investor not able to participate in more traditional ventures.

2- EminiFX is NOT a Ponzi-scheme, was never one. EminiFX is a full-fledge fully operational modern Digital Asset investment club company.

3- EminiFx is NOT a "multi-level investment" company. EminiFX offered a multi-level REWARDS structure to the investors. NO member/investor was required to sponsor anyone to benefit from the digital packages. The EminiFX Digital package is all encompassing and does not need anything else other than the digital package investment ALONE. The Airlines offer the typical rewards plans to sponsor family members and earn convertible points. The Banks offer the like structure if you sponsor "anyone" as a new client for the bank. Each business offers their own multi-level 'rewards'.

4- The EminiFX Estate is made of investors' funds, EminiFX assets, Mr. Alexandre's Assets, and proceeds from the high yields interests from the investors' funds as required by regulations in compliance with the Statutes.

5- The entire EminiFX Estate is the basis for Mr. Alexandre's Restitution payment to be returned to the members of EminiFX, thus belonging to the investors of EMINIFX, AND whatever is left unpaid is for Mr. Alexandre to pay back to the Government, and may or may never find its way to the investors depending on how much the Receiver and his teams, and his Law firm associates eat from the funds with that kind of quarterly billing. All that for Mr. Alexandre to repay for the rest of his life.

6- How it happened? On the dreaded morning of May 12, 2022, the CFTC with the assistance the temporary Receiver, hired, walked in, BROKE everything, took control of EminiFX assets and operations, armed with the the Judge Temporary Restraining Order (TRO) obtained via an ex-parte (one-way) proceeding, and started dismantling everything to prove that there is something wrong to be fixed by the savior, the Receiver, who broke everything. What we have is a destroyed company, all assets captured under unsupervised control of the one person who did not work hard nor contributed sweats equity in building the organization. All assets were liquidated causing a significant loss of

\$30 million dollars in the Cryptocurrency portfolio from \$120 million down to \$90 million at the conclusion of the liquidation trades to convert into US Dollars at the worst possible time in the history of cryptocurrency liquidation. And this is not withstanding the destruction of the Real Estate portfolio After-Repair-Value (ARV) also liquidated at below 30% of the already low acquisition costs which costs EminiFX around 40-60% below ARV (without any logic to do that.) 24 months later, the Defendants and the Investors are still trying to find out what was the emergency used as the basis for the rush and the wash sale, knowing that any panic sale in Real Estate will cause massive losses. Yet, the Receiver took pleasure in destroying and spending.

7- The Receiver comes with a baggage, the law firm who hired him to work for them, and he will in turn supervise that same law firm by paying them million of dollars that he will swear is a good thing for us. Does that sound like conflict of interests?

8- The Receiver from day one in his first newly found executive power, seized the salary of the CEO, and the CFO not a party to this instant action, fired everyone; and now says he expected them to file a claim through the claim process for their salaries to be returned to them or not. In an arbitrary action to go around and seize without due process, ex-parte (one-sided) with the Judge allowing him a free reign, he is free to arbitrarily be both the judge and executioner with the assurance to have his actions rubber-stamped by the presiding Judge.

9- The Receiver, after 24 months, is dragging his feet not knowing WHEN he will complete the distribution plan. He now talks about at least 2 more semesters to figure out the verification process again and start on implementing a distribution plan. He has no ideas, nor intentions to disburse that funds anytime soon because he needs it to pay his professionals. If he pays out the funds, HOW will he get paid and find money to pay his team of "professionals?" An important question to raise. Sounds like quite simple arithmetic. Hence, He will not pay out until he has completed his maximum withdrawals from the funds.

10- The Receiver has been submitting that kind of reports before, sometimes under "partial" label to avoid the scrutiny. And, after 24 months, persists in providing "illustrative" accounting reports to a real case with lifetime consequences far from being illustrative in substance and in consequences.

At some point, we have come to realize that this receiver must be terminated for cause, replaced by a more capable administrator who holds dear to regulations and standards when it comes to CFTC-led civil enforcement actions as regulated by the Code of Federal Regulations (C.F.R.) 17, et seq.

11- With the extensive resources, and the number of professionals of all backgrounds working for the receivership, to persist in producing these "illustrative" reports and failing to meet the standards is abhorrent, and devoid of any desire to do good by the parties involved. What's worst is that the Receiver submitted for review the following exhibits and Declarations/Affidavits summarized in the table that follows under seal so nobody can see what's going on:

First Quarter 2024 Application Submission Attachments Summary Table

DOCUMENTS	UNDER SEAL	DECL./AFF.	AMOUNT
Report.....	Exhibit 1-1.....	Exhibit 1 Declaration.....	\$89,470.00 fees.
33 pages.....	Exhibit 2-1.....	Exhibit 2 Declaration.....	\$667,990.35.....+\$99.60
Application.....	Exhibit 3-1.....	Exhibit 3 Declaration.....	\$500,156.00.....+\$18,159.58
51 pages.....	Exhibit 4-1.....	Exhibit 4 Affidavit.....	\$44,448.00.....+\$2,222.00
	Exhibit 4-2.....	Exhibit 5 Declaration.....	\$29,967.61.....+\$18.85
	Exhibit 5-1.....	Exhibit 6 Declaration.....	\$208,563.50.....+\$23,278.09
As approved by the CFTC:			Total \$1,540,595.46.....+\$43,778.12*
(Not surprising)			

*Plus Deloitte Tax Further Requests of \$34,240.00 + \$1,712.00 for the Fourth Quarter of 2023

NOTE: That kind of Billing cannot be a black box with highly secure secret credentials. There is NO national security with NSA clearance required for Mr. Alexandre to see why the Receiver is spending so much money with redundant billing hidden under seal. This violates due process rights and property interests. A citizen must not be deprived of property without due process according to the Fourteenth Amendment to the United States Constitution.

The Supreme Court agreed and affirmed these rights and their critical significance in the pursuit of justice, identifying a two prongs standards to be met to ensure due process is satisfied in conformity with the Due Process Clause. (1) Due process requires a general matter opportunity to be heard at meaningful time and in a meaningful manner. (2) Citizens must be afforded due process BEFORE

deprivation of life, life, liberty and/or property. See Nat. Council of Resistance to Iran v. Dept. Of State, 251 F3d 192 (D.C. Cir. 2001), Matthews v. Eldridge, 424 US 319, 333, 47 LEd2d 18, 96 S.Ct. 892 (1976), and Armstrong v. Monzo, 380 US 545, 552, 14 LEd2d 62, 85 S.Ct. 1187 (1965).

9- UNDER SEAL

\$1.54+ Million FILED UNDER SEAL*

This brings a cloud of impropriety and a litany of conflicts of interests. You can imagine the Receiver telling us the stakeholders to trust him to pay his boss \$667,990.35, (\$2.7 Million annualized at that current rate, including the discounted rate offered to the investors;) because he supervised his Boss' work, who in turn will pay him his salary; and the Receiver telling us that this is a good invoice because he convinced his boss to give us a discounted rate for the complex work performed. And he is not able nor willing to show the work done to protect the integrity of the work performed, however, trust his words on that. This is beyond wrong and also weird. This action is leading us in uncharted territory with front row seats to see the ugliness of the abuse of discretion and unbalanced authority. All the while, the honorable Judge Caproni spared no occasions to praise his work and say how much she is happy with his performance. Who will hold the Receiver accountable? The parties must. There is a significant difference between filing a document "redacted of private identifiable information (PII)" and under seal out of the public eye to avoid scrutiny. This added cloud of secrecy is worrisome and violates the constitutional rights of the parties and specifically of the Defendant.

BACKGROUND

In an unprecedented move, breaking with its own practice, regulations, and its own policy of the past 33 years, the CFTC launched a joint-criminal investigation with the AUSA and commenced a separate simultaneous ex-parte civil action "under seal" against the defendants, Mr. Eddy Alexandre, CEO of EminiFX and EminiFX by hiring a Temporary Receiver, Mr. David Castleman, submitted to the Court on May 11, 2022 for approval as permanent Receiver to support the CFTC enforcement in this instant action. Among the chief charges presented by the CFTC to the Judge to show cause were grave imminent danger if they do not get a complete Statutory Restraining Order against Mr. Alexandre due to his actions of taking the members funds and transfer them in hiding places, imminent flight, fraud and massive losses. They came along with their own Receiver to find the proofs for their allegations.

Ever since hired by the CFTC, and subsequently submitted to the S.D.N.Y for approval as a permanent receiver on May 11, 2022, Mr. David Castleman, the CFTC-Court-Appointed Receiver did the "expected" job for the CFTC. Dismantle everything and shut down operations for EminiFX. From day one, as he reported in his status reports, he "fired" everyone, seized control of operations, effectively shut down EminiFX operations to have complete control over EminiFX systems and also operations, while installing a complete blackout into the operations of EminiFX. The Receiver immediately started to advertise that he found no operations, this is just a scam operation. And weeks later, rushed back to the Court asking for extensive permissions to hire over 50+ contractors, herein referenced as "the professionals" in his Status Reports for the purpose of submission and billing [because he pretended that he magically found a complex Real Estate portfolio, and a complex operation.] If that were to be case that he magically found out that EminiFX owned a complex Real Estate, and that the CFTC failed to properly investigate, fail to take a look at the EminiFX operations BEFORE shutting it down based upon uninvestigated allegations, this would be the crime of the century. Well. Mr Alexandre will side with the Receiver hoping that he is telling the truth. Therefore, how did that happen?

How could a federal agency, go to such length and cause so much damages without a comprehensive investigation? Knowing that they have a direct backdoor agreement with the AUSA office pertaining to document exchange in that joint-enforcement action and that they provided over 1.1 million pages of statements to the AUSA offices as evidence, when in fact they did not investigate nor knew what was crucial to the investigation, how did we get there? "Regulation through Enforcement" is the only plausible answer. This is why the CFTC needs a Receiver that can make these assertions unchallenged that they can in turn use as "evidence" in their proceedings.

This was an act carefully planned and beautifully executed to start destroying the property and assets of the investors and of EminiFX and put the blame on the CEO of EminiFX, inter alia, Mr. Alexandre. Doing that will cause the investors to rise against the Defendant, and the truth will never come out. In fact, the Receiver fired the very professionals hired by renowned talent agencies in New York that

could give him access to ALL the data for an average of \$65/hour at no extra cost to the investors. Yet, that would not be good because he would not be able to hire his group of friends for \$400-\$1000/hr, now all offering "discounted rates" to EminiFX at around \$300-\$995. I never experienced such a well elaborated conspiracy to deprive investors of their hard earned money under the disguise of saving them from a doomsday scenario.

God only knows what's going on within that Receivership structure filing billing under SEAL to hide the true facts of their actions. What we know for sure, is that the billing started coming soon after, and the investors had to intervene massively to protest against the wild appetite of Mr. Castleman resolved in spending as much as possible. The Honorable Judge Caproni attempted to explain to the investors why she believed the billing was reasonable.

The CFTC is obligated when commencing a civil enforcement action to place the money seized into an interest bearing account/s and this is mandated. This is to benefit the investors and not for the benefits of any Receiver and his friends to come around and eat it all in addition to the funds that are lost in the process of taking over and as a result of poor decision making from this Receiver and the CFTC combined. Although the investors actively attempted to steer the Receiver in the right direction on how to manage their funds, his lack of experience in the Crypto world and unfamiliarity with the Digital Assets environment, the Receiver destroyed the Main Crypto Portfolio from the \$107 million transferred to him down to \$90 million dollars after transfer. A staggering loss of 17 million dollars as a direct results of a massive selloff by the Receiver, ignoring the significant objection of the Defendant through counsel, and the subsequent campaign by a thousand active members from the EminiFX investors.

The Defendant believes this amounts to gross negligence by the Receiver causing the loss of millions forever for the CEO to RESTITUTE. As if this was not enough, to add insult to injury, the Receiver promoted the TRANSFER from the Crypto portfolio to the US Bank accounts as PROCEEDS to the EminiFX Estate. He was able to add \$90 millions dollars for the EminiFX investors. I believe that the Receiver is taking EminiFX for granted, assuming that they are all ignorant of what is theirs and what's not. According to the Merriam-Webster Thesaurus, proceeds means

"an increase usually measured in money that comes from labor, business, or property--see INCOME. or "the amount of money left when expenses are subtracted from the total amount received--See PROFIT." In both cases, the total amount received was \$107 millions minus the amount left \$90 million=\$17 millions loss(NOT a profit.) This is a the result of the trades from BTC to USD at the wrong time from EMINIFX ACCOUNT TO EMINIFX ACCOUNT. There are NO proceeds, this is a massive LOSS from Mr. Castleman's BTC-USD trades.

This is exactly why the Receiver refuses to produce GAAP compliant accounting reports. This is "illustrative", "creative" accounting to suit the needs of the CFTC hiding the massive negative impact of the CFTC enforcement action. This has gone unchallenged for far too long and must come to a stop. Mr. Alexandre will no longer standby in the hope that the Receiver will one day correct the records, as his own attorney, he will from now on take advantage of the adversarial litigation process to keep the Receiver honest. This is an outrageous loss amount for Mr. Alexandre to payback for the rest of his natural life, depriving him of liberty and property without due process rights. One may see the significance in challenging these omissions, misleading reports and assertions. The very same charges filed against Mr. Alexandre.

The status report omits the material fact that Mr. Alexandre played an active role in efforts to "preserve assets," including Crypto from Coinpayments Exchange when the receiver informed him that he was experiencing difficulty obtaining information from Coinpayments and requested Mr. Alexandre's assistance. On June 13, 2022, Mr. Alexandre, through counsel, executed a written consent in support of the Receiver's request to Coinpayments for "all historical records" and "the TRANSFER of assets... as soon as possible." That same day, Coinpayments provided the "95-megabyte text file" described in A Status report Dkt. 71 at 16. Coinpayments's disclosures demonstrated that (1) the EminiFX investment account at issue was registered in the of EMINIFX INC. by Mr. Alexandre, using, inter alia, his home address, date of birth (DOB), and New York State (NYS) driver's license, and (2) the account contained the USD equivalent of \$107 million in cryptocurrency as of May 13, 2022, i.e., two days after the CFTC elected to obtain an ex-parte Statutory Restraining Order (SRO) that resulted in the freezing of the account. That EminiFX investment account was held in an account that EminiFX opened "transparently", maintained in plain sight, and referenced during at least one of the "investor's call[s]" described the

previous Status Report Dkt. 71 at 5, 23, 25). Notwithstanding EminiFX BTC holdings at Coinpayments, the CFTC claimed in a May 12, 2022 press release that EminiFX used "only approximately \$9 million of customers' funds to trade forex and cryptocurrency."

When the CFTC started their take over process, "secretly asking" Coinpayments to block the portfolio for them before they even went to court, nor got the judicial power to request such actions, or had a judgement entered against the defendant PRIOR to securing a court injunction on May 11, the portfolio was around \$120 million shown to the investors in a weekly business meetings. The CFTC started to act covertly behind the scene impacting the automation of the Application Programming interface (API) of the EminiFX system preventing the accounting staff from approving the investments to be able to CREDIT the members account. That is a loss of \$120MM-90MM=(\$30 millions losses in Cryptocurrency alone, without the loss in the Real Estate Portfolio due to massive wash sales-liquidation.) That would lead to millions of dollars unassigned on the day of the arrest and for two weeks thereafter without any accounting department to confirm the investment and the purchase of the Digital packages. This was significant, not inadvertent and a conscious effort.

This level of recklessness led to the mess the Receiver is pretending to be cleaning. As the Architect of the EminiFX system is now available to counter these assertions and challenge these allegations, the Receiver can no longer indulge in making these assertions without the adversarial litigation process. This debacle would have never happened without the contributory gross negligence of the Receiver and the actions of the CFTC combined. And they knew it since we have learned from the FBI stating on the records in the Criminal proceedings, that their informants were aware for months that EminiFX had a very complex set of portfolios, including a large Real Estate portfolio. It also means that the CFTC should have known and must have known to share that information with their receiver. The Receiver worked with the CFTC before May 12, 2022, the day the court order was unsealed. There is no excuse for a blunder of this magnitude, unless it was serving a purpose to destroy EminiFX and cause a massive loss for the CEO to pay a restitution for the rest of his life.

EminiFx had only NINE months in existence: ramping up operations, building infrastructure and creating processes as part of a massive undertaking. The Sr. Executives of EminiFX spearheaded

a significant number of applied strategic leadership initiatives with memorandum of understanding in place with industry leaders to deploy security procedures and countermeasures to detect and report suspicious activities (SAR) to the proper authorities. For 24 months since taking over the EminiFX system and operations, the Receiver has been repeating that he did "not" find any taxes paid at all.

Interestingly, this was a young corporation in its infancy, nine (9) months. However, ALL state and federal quarterly taxes were reported, filed and paid timely every single quarter for the 9 months in existence as reflected by the records for Corporate payroll taxes, Employee payroll taxes, Retirement benefits, Unemployment insurances, Health Benefits being deployed, etc.. 24 months later, it is worrisome that the Receiver takes comfort in stating he did not yet pay the taxes instead of doing the very first task he inherited to "pay the taxes" for the corporation. Instead, he keeps on repeating misleading statements and printing assertions that the young corporation was a lawless space that he was tasked to fix and that's simply not true. Although he hired one of the well-known best-in-class in the industry, and many firms to handle the taxes and "accounting" after two years, there is no GAAP income statement proffered as the result of an X-RAY of the status of what was the health of EMINIFX at the time of the take over.

REVENUES

What happened to the Revenues?

- 1-Did EminiFX ever make a penny?
- 2-Where are the revenues streams of EminiFX?
- 3-What are they and how did the revenue streams factor into the spending and operations of EminiFX?

This is a clear indication that we need GAAP Income Statements, real numbers for revenues streams and resulting profits or losses. After 24 months of "illustrative" numbers even used in the setting of the restitution payment amount for Mr. Alexandre, this instant action has crossed over into the real numbers zone. Talking about corporate taxes that was NOT overdue at the time of the take over, is misleading and that omission is done purportedly to spoil the jury pool and taint the investors minds trying to hurt the company's reputation and Mr. Alexandre's stature and image.

How convenient that, 24 months after the take over, the nine(9) months old company's corporate taxes are still not paid because the ex-CEO, Mr. Alexandre, did not pay the taxes. That sounds like a true campaign slogan and surreal to Mr. Alexandre. It is time to show the real numbers and all the profits and losses of the young corporation for history to witness, no matter how ugly or beautiful the numbers may be. This must be the standard by which the operations of EminiFX are measured moving forward. Real numbers don't lie, people do.

After building an aggressive diversified portfolio, the founder and ex-CEO of EminiFX took great care into building a modern Digital Assets platform harnessing the power of Finance and Technology (FINTECH) to allow the disenfranchised and little investors to take advantage of a growing market of digital assets by investing in a "digital package" powered by a mixture of sound placements and the leverage of extremely volatile financial instruments in the Cryptocurrency industry and the tangible assets to the like of REAL PROPERTIES at all levels of Real Estate Investments. That story must be reflected into the Receiver's Status Reports of the Receivership costing the innovator, and the EminiFX investors hundreds of million of dollars of losses for years to come.

First and foremost, the Receiver destroyed the Real Estate Portfolio, then he proceeded to destroy the Crypto Currency Investment Portfolio. Thereafter, he transferred what was left over from the CFTC-led debacle from the Interactivebrokers' trading account.

The Receiver also went to the Media to create buzz and to spoil the jury pool, knowingly and willfully, in violations of the media publicity Rules by giving interview making biased statements without the required caveats and presumption of innocence for unchallenged statements without due process, and started advertising on his new receivership website and in his filings that he found no records. First NO records, then "poor records", then all the numbers are FAKE progressively putting in the mind of the public and the media that he found nothing and what he found was fake numbers. The Receiver's report continues to be disputed in several respects by Mr. Alexandre, during a period in which he filed for the complete dismissal of this instant civil action, and expressly subject to change by the same

Receiver based on additional withheld information.

On July 2022, a news article regarding the Status Report attributed a quote to the Receiver from an "interview." After the Receiver confirmed that he spoke to the author of the article, counsel pointed out that the quote is NOT accompanied by some of important caveats set forth in the Status Report and could therefore taint the jury pool and prejudice Mr. Alexandre by, for example, biasing potential witnesses. And it did in the Criminal proceeding. Mr. Alexandre reserved the right to seek relief from the Court should similar issues arise in the future impacting fundamental fairness and his ability to present defenses in these and related proceedings.

In December 2023, and first quarter of 2024, the Receiver repeated the same behavior by actively sponsoring a media campaign in the form of "short informational spots", Pg. 17 Dkt.303 at 3. This time the Receiver completely went off the reserve and sponsored a defamation campaign with a spot promoting slander and libel on Mr. Alexandre with the money taken from the EminiFX Estate and the special Court's approval for over \$50,000 spent on these media runs. See Exhibit A5-7 attached for the content of the texts sponsored by the Receiver, Mr. David Castleman stating in whole and in part that "because he admitted that he stole hundred of million of dollars from the investors, the Judge from the American Court in the District of Manhattan transferred the case to a lawyer, Attorney David Castleman who himself come to tell you, that you who have invested, you have a date limit this February 26, up to 5:00pm in the afternoon to fill out a claim form on the internet so you may find a compensation from the money you invested." Added to the spot is a picture of Mr. David Castleman with a banner promoting these lies. Hence, the egregious behavior went from basic progressive intoxication of poor records to now a straight lie about Mr. Alexandre, tainting the Jury pool in this venue. There is no telling that Mr. Alexandre does not expect to find a fair trial in this venue. The Receiver had a free reign to go around and make unverified statements tainting the jury pool using the media.

Now, with the Eighth edition of the status report, and millions of dollars spent on billing and fees, there is NOT a single Generally Acceptable Accounting Principles (GAAP) report compliant to the CFTC mandated regulations according to the Statutes that govern how the CFTC-led enforcement civil

action must proceed to charge a citizen of the State with a federal violation with data proofs and upholding the Due Process Clause.

The Receiver's reports continue to provide data that are "not" conformed to GAAP after 24 months of Receivership operations, and having access to significant resources available to produce reports that are audited and/or conformed to the accounting standards in the United States of America. The Receiver has been complaining he did NOT find any data for 24 months while eating millions and show nothing for it. He did not find data, yet in the same breath, as shown below he found significant reliable data to validate 99.8%* of Cryptocurrency withdrawals... This is a false statements to say he found poor data to justify his spending spree wasting millions of dollars in investors funds for Mr. Alexandre to REPAY as restitution with the abuse of filing his actions under "seal." Mr. Alexandre reserves the rights to challenge this abhorrent behavior in the Court of Appeal in due time. What we are provided with is a collection of beautiful documents put together for "illustration purposes" without regards to the Accounting Standards that this court should have demanded that they follow, by respect for the Court, and for the investors and the defendants in this instant action. This analysis of the Status report inferences and the exhibits-table will present a clear picture where we are heading with this Receiver.

The CFTC, as a federal agency, "must adhere to the Federal standards including but not limited to Code of Federal Regulations (C.F.R.) 17 section 5.1, et seq. & 5.1(g) more specifically, that stipulate in clear and unequivocal way the manner in which, and the standards for the CFTC enforcement action financial reports (GAAP report). Hence, the Receiver the CFTC hired for this civil enforcement action, and requested for the Court to keep in place, must also keep in mind that a report that is not conformed to these standards (GAAP) falls short for that type of enforcement action and proceedings by the CFTC, and fails from satisfying the mandate from Congress when publishing Statutes and Regulations to keep the Federal Agencies honest and maintain the public trust.

Mr. Alexandre has been patiently waiting for 24 months for WHEN a standard GAAP report would be finally produced by this Receiver, when we know how many hundred millions of dollars are at stake in this matter and how many millions are already spent by the Receiver's group of professionals, herein referenced as "the professionals" unable to even produce ONE (1) single GAAP report report in support of this instant

civil action. Mr. Alexandre raised those concerns to his previous legal team, he learned that the report was partial, and that more would come at a later time. Obviously, with the change of counsel on record, this will no longer go unchallenged. The wait is over. There is absolutely no excuse whatsoever as to the reason why the Receiver is obstinate in producing subpar "illustrative" accounting reports or "creative" financial reports, inter alia, "illustrative status reports" as submitted for evidence to the Government in Criminal procedure, and now to the Court in this civil action. When will we crossover from the illustration phase to the REAL GAAP accounting reports? As of right now, Mr. Alexandre is not in prison for illustration purposes, and his restitution is not an illustration, the same goes for the millions in fees requested by "the professionals" not for illustration purposes. We are dealing with real data, with unlimited consequences beyond the realm of --illustration.-- It is now time to see a real GAAP report.

It's worth noting that this report already got the blessings of the CFTC, in contrast to the CFTC's own set of binding Federal Regulations requirements, not even one GAAP accounting report was provided to the Defendant to show cause for the violations raised against them. Why is that?

This is by no means a judgement on the mindset of the Receiver himself but an opposition to the method used to support "A" CFTC's enforcement action in an effort to bypass Congress' mandate to the CFTC to provide a GAAP report to the Defendant when regulating interstate commerce for all financial instruments that would normally fall under the purview of the CFTC. [Although EminiFX was never a commodity pool operator but a Digital Asset company selling digital packages.]

Because this suit is a CFTC-led action, the professionals must all abide by these standards as they are reflected in the Complaint as framework for the violations allegations of CFR 17, 5.1 against the defendants herein. The exact allegations that the CFTC is using against the defendants require a GAAP report and not an "illustrative" or "creative" nor a "decorative" accounting report printed in full color, carefully crafted to make an impression. We know, from the millions of dollars charged to the EminiFX estate as expenses for managing the EminiFX Estate to date, that the Receiver has the financial means and secured the court's approval to hire over 60 professionals 'required' to get the job done the right way. The fact that the end result is subpar is raising eyebrows and can only be part of a grand scheme to persist in the production of creative accounting reports versus standardized

GAAP reports for all parties to see. From the standpoint of a court submission this is unacceptable at this stage and the stakes are too high to allow continuance without demanding accountability for such egregious conduct.

There are other fundamental aspects of the reports concerning defects and omissions that need reconsideration that are covered below in the second part of that motion because Mr. Alexandre and the investors deserve clarity.

POINT OF CLARIFICATION

In "page 5 of 7" Dkt. 303 of the Application under the section "Administration of the Estate and Case", the Receiver stated and I quote: "The Receiver also coordinated with counsel for the CFTC and Mr. Alexandre regarding potential next steps and resolution of the enforcement action(3)". Mr. Alexandre did not speak to the Receiver about the resolution of the enforcement action. Although an agent for the CFTC and the Court in this proceeding, he is "also" a party co-defendant representing "EminiFX", whereas the CFTC is the party to deal with concerning the resolution of the enforcement action.

REPORT ANALYSIS AND FEEDBACK

Page "3 of 27" Dkt. 303, during the early stages of the Receivership, the Receiver dedicated significant resources and time to destroying anything he could find so he can come back later and say that he needs millions to rebuild the data and conduct verification. Hence, the EminiFX System was destroyed and the Databased confiscated. Mr. Alexandre, the Architect of the EminiFX system and Sr. Engineer who deployed it, cannot speak to the state of the EminiFX System and the EminiFX Database as proffered by the Receiver. The Receiver also provided a copy of a subset of the Coinpayments to Mr. Alexandre via his counsel of records after a formal request through the discovery process in the pre-trial phase. The Receiver also provided a copy of the Coinpayments complete and detailed records of all deposits and withdrawals made to and from Coinpayments, EminiFX Official investment account, created under EminiFX, Inc., AND kept (maintained) in the open with the bulk of the Digital Assets portfolios.

Coinpayments records (The Main Cryptocurrency investment portfolio) were the exact replicas of what a person, an auditor, an employee, or a contractor would find in the EminiFX System when cross-referencing EminiFX investments digital packages purchases. And there is a significant reason for that to be true and validated by the Receiver's report. It was AUTOMATED via an Application Programming Interface (API) to create and record transactions in both systems (The Crypto Exchange and The EminiFX Management System) with minimal human interactions (assisted). Thus the keyword of "assisted" in the EminiFX official documentation.

The large TEXT file of the ENTIRE EminiFX historical transactions of any purchases and withdrawals as provided by the Crypto exchange herein referenced as "Crypto 4" and identified as Coinpayments, was sectioned in two parties. "Incoming payments" for digital assets purchases, and EminiFX customers "withdrawals or payments" for the "entire" lifespan of that official corporate cryptocurrency investment account. NOTHING was missing from that file. Had the Receiver not destroy the EminiFX system, any entry-level junior staff member in the accounting department could pull more complex reports from the EminiFX System with the exact cross reference from the exchange directly, inter alia, with Coinpayments if the CFTC made such requests in a fair and just world. However, they did not. They wanted to come in and spend million of dollars unnecessarily, since it will not be their funds but the investors funds, under the disguise they found "poor records", a code-word for waste without oversight. For that to work out, they had to destroy all and everything, then turned around and claimed not to find anything useful or value. Mr. Alexandre would like to take a look with you into the records and verify or debunk that claim.

In that context, Judge, Mr. Alexandre searched and could not find another case in the SDNY where about one thousand (1,000) investors filed a legal response, based upon the request of the CFTC-Court Appointed Receiver to provide directions on how to protect their funds, and for that same Receiver to go against their interests and waste their investments ignoring their contributions to the process to protect their hard earned money entrusted to his care. This was a sham process. There is no other way to categorize it. At the end of the day, the investors are the one damaged and hurt forever.

It appears that the "voice of the little people" the voice of small investors, minorities, etc. does not count. The level of blatant disregard for our input and the persistence in destroying the company and the assets of the EminiFX investors make this Receiver unfit for duty. And yet, after such a debacle he has the courage to print statements that he protected the investment that he destroyed? No Judge, this is a disaster and the Receiver has to "own" it.

When you take over a portfolio of Bitcoin (BTC) with \$107 million dollars in USD equivalent at that time, on the Morning of May 12, 2022, and liquidated the entire investment against better judgement, just because you can, around the same time gigantic firm to the like Blackrock were pushing for massive adoption of BTC Exchange Traded Funds (ETFs), you are basically clueless about the product you are being tasked to manage. The level of inexperience of the Receiver and lack of knowledge about the cryptocurrency world led to the catastrophic disaster of epic proportion that will go down in history as unmatched. No amount of media-campaign can repair that massive destruction and damage. He must own that loss, acknowledge it and held liable for his contributory negligence role at the realm of EminiFX. The Defendant is proud of all his decisions and liable for all the errors as CEO of EminiFX and so must be the Receiver during his tenure acting as the Trustee while the company is under Receivership. The Defendant and the members and investors of EminiFX are asking for accountability.

Today, the BTC is climbing back exactly where the Defendant and the EminiFX members knew it would be based on our experience with the BTC world and projections. What have we lost? Let's revisit the 8th Edition of the Status report of the Receiver. The account contained the USD equivalent of over \$107 million in Cryptocurrency as of May 12, 2022, i.e., two days after the CFTC elected to obtain an ex-parte statutory restraining order (SRO) without notifying the Company, EminiFX and Mr. Alexandre of any violations of any CFTC regulations, that resulted in the freezing of ALL assets of the company and other related and unrelated assets of all EminiFX members and investors, even employees.

We also have proofs that the CFTC without a court order contacted the Cryptocurrency broker, the main Crypto exchange Coinpayments, earlier than that to freeze the main account without any legal authority and jurisdiction. Dkt. 71 at 16. As of July 20, 2022 after leaving the main Crypto unattended

the Receiver received what he estimated to be \$86 million dollars in BTC of USD equivalency for a lost of about \$21 million dollars in USD equivalency. (See id. at 3, 31). Fast forward to after the Receiver ignored the members and investors interventions he himself requested, the DAMP protocol was approved and granted by the Judge Caproni over the objections of the 'vast majority' which was the PLURALITY of the members intervening. Dkt. 181.

On July 28, 2023, the Receiver reported that the Bitcoin (BTC) Sales resulted in net proceeds for the Estate of more than \$90 million dollars, down from the \$107 million in USD equivalent of Cryptocurrency. That action "sealed" the fate of the Digital Assets holdings of EminiFX converting into a permanent LOSS forever unrecoverable, because it is no longer an investment in the BTC and now the BTC is hedging around \$70k-\$100k in price. The value of the Digital asset portfolio would have been around \$750 million-\$1 billion dollars in USD equivalency. Who is liable for this massive loss? Mr. Alexandre seems to be the only one left holding that massive CFTC-Receiver-man-made loss with a restitution of around \$213 million for the rest of his natural life; whereas the EminiFX investors have forever lost the vehicle they trusted. Someone must be held liable for this mess.

As if this is not bad enough, the CFTC who hired the Receiver before May 11, 2022 and recommended him for permanent appointment to Judge Caproni to watch over the EminiFX assets, is now requesting to be paid \$18 million dollars in fines by the same Receiver for a job well done. At the end of the day, the members are the only losers while everyone else is getting richer on their backs. The EminiFX must get paid. We need the Judge to intervene.

FIRST CLAIM

Fake numbers of investors

At the conclusion of the Criminal Procedure, the Receiver provided data to the Government and both the government and the Receiver published that there are 25,000 EminiFX investors. Mr. Alexandre pushed back and objected through counsel that this number is erroneous, because EminiFx had about, the last time we checked, at the very least 35,000 confirmed verified investors with funded accounts. A verified investor is a customer or member who after testing the platform for 14 days purchase a digital package for the first time (Regardless of the size of the digital asset package purchased.)

If the member does not want to join, they get a free trial period to test drive the platform and moves on passing on the investment opportunity.

The ratio of conversion from members to investors were about 50% and thus a key ratio measured and reported to the investors in weekly business meetings. The CEO of EminiFX was worried about the numbers reported by the Receiver and voiced his concerns to his prior legal team in this regards. WHERE did the Receiver find the number 25,000? Not in the MySQL database. Or were we dealing with a corrupt database? Was it an arbitrary made up number, and for what purpose? Any entry-level accountant could get the right number in one minute. Now million of dollars later, after Mr. Alexandre filed on the docket stating 35,000 EminiFX investors, the Receiver changed his numbers to between 30,000-40,000 investors. The same database where the 25,000 came from had the 35,000 all along. What were the basis for the 25,000? Why changing that number now that the Defendant is putting the 35,000 on the records? The danger in that kind of progression when you have the real number from the beginning is that if there is no rejection to that false number that would have been the truth. Mr. Alexandre's concern is to ensure that every single investor small or big get paid by the Receiver without disenfranchising them by any trickery.

The EminiFX system deployed is a complex system, indeed, but the MySQL database itself has all the tables necessary to run any query and get the proper information. A GAP of 10,000 investors is not a mere mistake, this is gross negligence or willful retention of the real numbers for a purpose. Mr. Alexandre is trying to understand why that would be other than to keep the funds of the last group of 10,000 to pay "the professionals". In that context, the Receiver is falsifying business records in the furtherance of committing another crime. Mr. Alexandre does not expect him to be prosecuted by the very same people he is working for, however the truth shall set you free. The records must reflect that concern and make note of that claim raised against that misleading statement and willful omissions that is "material" to the benefits or lack of benefits for the members/investors of EminiFx.

SECOND CLAIM

No real estate portfolio values

Similar to the Crypto Exchange 4 herein defined as Coinpayments, Mr. Alexandre has endeavored

to facilitate the Receiver's efforts in connection with what the Receiver described in the Status Report the EminiFX "Real Estate Portfolio." (Dkt. 71 at 2). Specifically, on June 8 and June 21, Mr. Alexandre executed agreements proposed by the Receiver to facilitate the recovery of funds related to real estate transactions/investments. Mr. Alexandre expects to dispute the valuations reflected in the Broker Price Opinions (BPOs) mentioned in that Status Report, which do not appear to account for the After-Repair-Value (ARV) that were central to EminiFX's overall investment strategy in the real estate sector, and quite frankly the ARV is essential and central to any experienced real estate investor. (See *id.* at 23-24, 34). What the Receiver did instead was to destroy the real estate portfolio and published statements in his preliminary filing disputed in several respects even admitting to instruct the real estate agents to liquidate the properties at around 30% further down from their already low acquisition costs. This is a disaster when we know how much sacrifices and efforts were invested into getting that many real estate properties secured in that short period of time for a young investment company that was nine months old and so many real estate negotiated and secured in records time. Part of that endeavor included, but was not limited to, one of the Glen cove properties for which the contentious sellers, now identified in the records as the Beil family are attempting to take \$160,000 from the investors funds.

Mr. Alexandre filed a counterclaim against the Beil's couple on May 31st 2024 as instructed by the presiding judge. This is once again an attempt to dilute the investors funds whereas the Beils tried to seized the \$535,000 funds deposited after much turmoil to get this deal closed and unilaterally moved the closing date on the morning of Mr. Alexandre's arrest to create a fake default and hold the funds deposited. Now, they came with claims around a million dollars to splurge on the investors funds. Mr. Alexandre worked with the Receiver from the onset to get that \$535,000 returned to the EminiFX not to see it going to people who did nothing to earn that money. Once again, Mr. Alexandre is now present and available to continue the fight to protect the funds of the EminiFX instead of handing over their funds to everyone who wants some of it. This also must be reflected in the records.

THIRD CLAIM

Falsification of Business Records-1

Mr. Alexandre has a long list of actions taken by Mr. Castleman that undermined the trust in the process and caused massive destruction of wealth for the EminiFX investors, Mr. Alexandre, EminiFX company, and the community at large. Just because Mr. Castleman arrived with a set mindset to destroy EminiFX and Mr. Alexandre at all costs, he accumulated a series of gross and reckless negligence with blatant misconduct violating the code of professional conduct in trial publicity issuing or condoning and sponsoring false statements that are detrimental in ensuring a fair and just trial for Mr. Alexandre and EminiFX, among the actions is the manner in which the Receiver twisted the data and falsified business records in the pre-distribution process to corroborate his brazen violations.

One significant example is the lie about the numbers of investors to be 25,000. Then he did not stop there, he went on to create fake investment profiles for the investors tiring them with back and forth starting from an obvious lie in attempt to force them into agreeing into a reduction deal and finish with that saga. See the table below.

The investor claim profile would show two critical areas

Using a reference list for INVESTOR ABC with an investment of \$25,000 using a wire transfer to fund his/her account as below. This investor NEVER withdrew a penny from EminiFX. See below:

DEPOSITS	WITHDRAWALS
\$0.00(Lie)	\$500 (Lie)
	\$1,000 (Lie)
	\$5,000 (Lie)
	\$10,000 (Lie)
	\$4,000 (Lie)
	\$2,500 (Lie)
	\$35,000 (Lie)

Total \$0.00	\$58,000 (Lie)
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Note: Any junior staff in the accounting department can testify how absurd that picture looks and Reckless for the Receiver to show that kind of profile to an investor. Anyone who works in the

accounting department must validate the deposits BEFORE they prepare the withdrawals for approvals by Sr. Management. There is something utterly absurd in that kind of assumption but it also shows how the falsification works. There is NO way someone with zero deposit can make these kinds of withdrawals. Somehow this is what the investors have been dealing with.

Where did these numbers come from? [They are false and made up numbers].

That same example is true for a member would would invest \$100k showing \$0 deposit with no withdrawals that the profile would show a list of withdrawals that are equally absurd. These are significant gross negligence made with malice and intent to defraud the investors from their hard earned money in the hope that the investors will just get tired, upset and abandon the money for the Receiver and his crew.

When you take a member who's account was never credited anything on the deposits side of the equation, and the company allowed them to withdraw weekly funds and its ok shows a terrible falsification of business records by the Receiver but more so absurd because it does not show where the money is coming from from an accounting standpoint. There is ABSOLUTELY no accounting done that way by any system. Because from each withdrawals, the account balance will decrease to reflect the new account balance. It is that simple. Hence, this is a significant malicious trick by the Receiver to disenfranchise the members and keep their deposits. The major issue in here is that ALL the deposits are already account for and provided to the Criminal case as belonging to the EminiFX members, and that Mr. Alexandre must return them as restitution to the EminiFX Investors in the closing down of the EminiFX company. Yet, we have a Receiver who is refusing to acknowledge the investments of the very same investors for which Mr. Alexandre is paying the restitution. This is a terrible action that cannot be hidden in beautiful and colorful Status Reports and must be addressed by your honorable bench. And the number of members dealing with that unbelievable situation is yet to be known, not that the Receiver will honestly report on it.

Whereas, Mr. Alexandre is requesting that the Receiver provides to the Court, a full reference list (with coded index key similar to the one he used in the status report) so the public can verify how many, what percentage of the members and the fund are affected by this tragedy, and what plan is

created to rectify that falsification. Mr. Alexandre will no longer standby and let this slide while left holding the bag.

This adversarial litigation process will address all contentions and request clarifications for all of these nefarious actions made by conflicted actors who have a vested interest in keeping as much money to pay themselves. At the end of the day, the entire exercise is supposedly for the members to get paid. The EminiFX must get paid and be indemnified.

Falsification of Business records-2

While on the subject, there is another significant abuse being done to the EminiFx members by design of the claim process. Mr. Alexandre raised the issue with his prior legal team and they were expecting to have that sorted out at a later time and advised letting it go for now. The entire process of claim has major deficiencies that must be corrected because EminiFX has established well published policies to allow free movement of funds between members via INTERNAL TRANSFER from members to members, as one would make a transfer between two members/accounts from the same financial institution. The Receiver ab initio did not want to include that in the claim process and must honor our established and documented policies to the risk of disenfranchising the EminiFX members with grave prejudice.

Mr. Alexandre would like to move the court to act expeditiously to protect the real interests of the EminiFX investors. The restitution imposed to Mr. Alexandre must be disbursed within the parameters of fairness, justice, decency and without malice to benefit the Receiver and his "professionals". Each and every member investor of EminiFX must be afforded the opportunity to get his investment back.

Mr. Alexandre is aware that the Judge said that "the Receiver is a Court-appointed agent" and that his actions reflect the position of the court ipso facto, and as a result, the court has nothing to do with the status report as it was just filed, that's all. Although there is everything wrong about that statement, it clearly just shows how the Judge is rubber stamping the Receiver's actions without providing the oversight requested even though the Receiver himself filed an application seeking approval for the payment or disbursement of the investors funds to his group of professionals as mandated. Mr. Alexandre considers that position from the Judge notable and a terrible precedent since all of us

involved, Mr. Alexandre, the EminiFX investors and the public at large entrusted the Honorable Judge Caproni with overseeing the process, firmly believing that she was the overseer and trier of facts that would be in the unique position to approve the disbursement of \$1,5 million by the Receiver for some secret SEALED invoices that only the Judge can see. Now, to hear that the court has nothing to do with it is worrisome and casts a major sense of panic projecting that the Receiver has free reign to spend the investors' funds with no oversight since the Judge also stated that the Receiver does not work for the CFTC (Yet, the Receiver got approval from the CFTC first.)

This is a difficult period of confusion that we must address to restore faith in the Justice system. We cannot allow the Receiver without supervision and oversight since the Judge stated that the Court has no actions to take for such a significant submission. Mr. Alexandre also recognizes that the Judge never missed an opportunity to praise the work and actions of the Receiver. But this time, the Judge went further in allowing a significant application for review to go unchecked assuming that the Court has no action needed from that submission. This is notable on many fronts, and Mr. Alexandre will address them in the subsequent arguments.

US ACCOUNTING SYSTEM

It is a fundamental principle of the US Accounting system that for every transaction to be balanced, there must be double entries. Thus the name of a double-entry system. Deposit=Credit and Withdrawal=Debit. Therefore, the same will be shown everywhere in an accounting or financial system. One will understand that every investor will expect to see the same basic principle of accounting principle reflected in the EminiFX investment portfolio and specifically in the members accounting and management portal. In the State of NY where EminiFx is headquartered, for lost and found funds, the Government will ask the individual to provide proof of identification, address and confirming what institution he thinks he was dealing with when the funds were lost. This is indeed a superb and sound policy that the State government put in place to reward thousands of citizens in retrieving their hard earned money. What we have here is a travesty, an attempt to keep the funds instead of releasing them to their rightful owners. Mr. Alexandre vigorously objects to that attempt and requests accountability and hereby preserves his rights to join with the EminiFX members seeking relief in the proper venue in due time.

Judge, Mr. Alexandre is not sure that you are aware of all the atrocities going on against the members. The reports of the EminiFX members submitting bank statements rejected because they must provide the original WIRE transfer receipt while the WIRE transfer is clearly written in the bank official records provided. And to make matters worst, the bank says that it does not keep such receipt for over 12 months. Hence, the official bank statements showing the transfer are not good "enough" for this Receiver. He stated that he himself oversaw each transaction with his law firm. Mr. Alexandre is joining his voice to the EminiFX members crying out for help. We are hurting, your honor. There is a level of decency in restoring an asset to his/her rightful owner. This is why Mr. Alexandre quickly settled the matter to facilitate the restitution, however what's going on is far from what was expected. Mr. Alexandre is not seeing the level of sensitivity from the Receiver and it pains him to sit back and watch that debacle unfolding.

Mr. Alexandre hereby states that he will from now on join the members request in any future motion to intervene to stake their claims because their rights are not adequately protected nor defended without a conflict of interests by the very same people eating the funds. Mr. Alexandre's rights and the EminiFX members are equally impacted and abused by this process. Mr. Alexandre is the sole responsible for every penny needed to be returned to the investors. Hence, he has a vested interest in making sure the money goes to the members and nobody else more than necessary for a critical service provided.

The EminiFX members/investors are treated like second-class citizens, silenced, and unable to speak with a "virtual gag orders." And, even when they are "allowed" to speak, they are just ignored and belittled. Of course they are the little people, small investors, minorities in the eyes of the actors in control of spending their hard earned money but to lady Justice who is blind, they must have access to Equal Justice pursuant to the Equal Access Justice Act (EAJA). They will no longer standby in silence, and Mr. Alexandre is now proactively addressing all of these assumptions and "illustrative" reports failing to meet the basic standards of the US GAAP (Generally Accepted Accounting Principles). The end goal is to turn Mr. Alexandre into the devil who holds the blame for that massive CFTC-made disaster created from Lies and false statements, omissions and misrepresentations to the Court as claimed and sworn in the Motion to dismiss. Mr. Alexandre has now broken his silence and taking an active place in the judicial discourse and proceeding to mount a vigorous and proper defense

in crafting his responsive pleadings. Mr. Alexandre is actively engaged and will stop at nothing in his efforts to claim the money for each and every single EminiFX members and seek relief for that action based on false statements, misrepresentations and carefully crafted omissions to defraud EminiFX and the EminiFX members of their hard earned money. "The Members must get paid." There will be accountability. This instant action started based on false statements and will be judge by history for what it is.

CONSPIRACY TO DEPRIVE

Section 241 of Title 18 of the United States Code covers conspiracies to deprive persons of constitutional rights no matter where it may come from. There is a property interest in play in the actions of the Receiver. The EminiFX members/investors are being deprived of their property with a makeshift process built to deprive them of the due process to seek and find justice and recover their assets. And

This is done at the costs of millions of dollars to the EminiFX members/investors and EminiFX. Mr. Alexandre rejects the allegations of fraud as alleged by the CFTC and this Receiver not taking the Revenues streams of EminiFX Operations into considerations, the conditions of mind of Mr. Alexandre. In alleging fraud, a party must state with particularity the circumstances constituting fraud as the Receiver stated that the investors never made any money it was money from one investor paying another one constituting a fraud. Malice, intent, knowledge, and other conditions or a person's mind must be stated. See Fed. R.Civ.P. Rule 9(b). See Ex. A-9.

CLAIM OF DEFAMATION AND INJURIOUS FALSEHOOD

Violation of Trial Publicity

This is not the first attempt of the Receiver. As a community leader, Mr. Alexandre considers himself as the great grand son of the Emperor Jean-Jacques Dessalines, the great grand nephew of the General Toussaint Louverture, and the bloodline of the General Capois-La-Mort, all of whom have given their

lives for freedom and civic empowerment in the fight for freedom and would never ever steal the hundred of million of dollars that they accused him of stealing in the Defamatory statements and media campaign of the Receiver paid for with \$50,000 of the investors funds. See Exhibits A5-A7 stating that Mr. Alexandre stated that he stole hundred of millions of dollars from the EminiFX investors. Mr. Alexandre is prepared to vigorously defend against such allegations in the complaint, the defamation, slander, and libel of the Receiver.

The Receiver by sponsoring that "media campaign" had no other goals but to spoil and taint the jury pool for the benefits of the CFTC knowingly and willfully. As a lawyer he is fully aware of the damages of such campaign and undertook that efforts with reckless disregard to Mr. Alexandre and his family's well being. He paid his supporters that he promised to rewards with EminiFX funds over \$50,000 as a cover under media campaign. The EminiFX investors are very unhappy about the way the Receiver destroyed their investments, thus they KNOW where their money is and are monitoring every action to claim their funds and seek relief from this instant action, including the Receiver's actions.

Since this action was brought under falsehoods, misrepresentations and omissions, no officials will be saved by the qualified immunity claimed to bring such charges under lies and falsehoods to violate the constitutional rights of Mr. Alexandre and the EminiFX investors. Therefore, the Receiver wanted to influence the community by paying some nefarious actors and some other neutral media outlets by getting them involved in the propagations of the slander, libel and defamation in an attempt to quiet the more vocal voices. By paying some activists, the Receiver thought he could sweep these actions under the rug. Using their own money against them. Very classic coup. Mr. Alexandre is reporting this behavior to honorable Jude Caproni for a sanction. When you look at the statement and his picture in the media blitz, you will see the terrible actions the Receiver recklessly took to damage this venue.

The saying says that a good name is rather to be chosen than great riches. (Unknown). Defamation is the taking from another's reputation, including but not limited to the publication that produces "any perceptible injury to the reputation of another." The results of these actions produce slander and libel.

In whole and in substance, funding, sanctioning, and supporting them with his own picture and a poster / digital banner with the following content of a TV Spot stating and I quote:

"The CEO of EminiFX stated that he stole hundreds of million of dollars from the investors". This is defamation, slander and libel, because this is FALSE. This is defamation and injurious falsehood. At the direction of the Receiver and his funding, his associates, contractors, assigns are publishing these types of falsehood about Mr. Alexandre to attack and destroy his reputation and character through injurious falsehood. This is malicious publication AND in violation of the trial publicity. Supra.

The Receivership role, although and agent of the court, does not confer any super legal rights. Like everyone else in this country, he is not above the law. See Ex. A5-A7 for the media TV Spot. This is an attempt to subvert the EminiFX members and the community at large with falsehoods, defamation, slander and injurious falsehood and libel.

A lawyer who is participating or has participated in the investigation or litigation of a matter shall NOT make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter. See Model Rules of Professional Conduct (MPRC) Rule 3.6. In other words, information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would, if disclosed, create a substantial risk of prejudicing an impartial trial; [...] Cleaned up. See motion for change of venue attached.

Mr. Alexandre is considering whether to refer Mr. David Castleman to a disciplinary body to be investigated e.g. the Grievance Commission, the Attorney Registration or Disciplinary Commission, the Committee on Professional Conduct, or the Board of Professional Responsibility. Mr. Alexandre believes that there is "probable cause" that a violation has occurred as a result of his unethical conduct that would most likely lead to the next step: a disciplinary hearing. See MPRC 8.4, 3.1, and 8.3. Mr. Alexandre will hold everyone involved in that defamation campaign accountable for their slander and libel.

IN SUMMARY

Page 4 \$250,000 in expenses associated with holding the Receivership's --digital assets-- in custody.

This is as a direct result of the loss generated by the Receiver and the CFTC combined.

Also part of the Restitution for Mr. Alexandre to retribute.

Page 5 "In February 2024, counsel for Mr. Alexandre reported that he no longer consented to the CFTC's proposed consent order. [Dkt. 257], and his counsel withdrew such that Mr. Alexandre is now pro se.

The accurate recount of the event is that on February 6th, 2024 the CFTC came back 60 days after Mr. Alexandre authorized his counsel to sign the consent order and allow the Receiver to pay \$18 million dollars to the CFTC. The CFTC added more charges they forgot to add in the previous consent order. Mr. Alexandre rejected the actions for bad faith negotiations from the CFTC using a piece meal attitude changing the final consent order they themselves crafted. Mr. Alexandre refused to sign to give up his Equal Access to Justice Act (EAJA). 60 days later after a long silence, they came back and wanted to add a list of changes that Mr. Alexandre rejected as erroneous and wrong.

Page 7 The Laptop application. Mr. Alexandre filed a motion for the return of seized property. The motion was denied. Mr. Alexandre filed a motion to reconsider and got also denied. Mr. Alexandre intends to appeal that decision to the Appellate division of the Second Circuit. Mr. Alexandre will vigorously defend against the abuse of his Fourth Amendment violation by this receiver and the condoning of his actions by the trial court ruling in his favor.

Page 8 \$1,584,373.58 application to review and approval by the Court "pursuant" to the Employment Order Dkt. 47. Yet, the Judge said that the application is filed and no action is needed from the court. Mr. Alexandre requests a point of clarification from this process. The confusion is hurting the trust in the process. The Receiver did his part. The Court needs to explain.

Page 9 These financial statements are "illustrative" and are not intended to be in accordance with generally accepted accounting principles (GAAP). This is outrageous that the Receiver was able to produce eight non-GAAP reports for over 24 months without any warning or sanctions.

Page 10 "EminiFx is a multi-level "investment club" that received over \$260 million ..." cleaned up. This is inaccurate, EminiFx is an investment club with a multi-level rewards program. No user of EminiFX was required to promote or sponsor anyone to take advantage the Digital asset packages offered to the EminiFX members. The digital assets package

alone was the "core and the purpose" of joining EminiFX. It's notable that the Receiver is now talking about around 35,000 users versus the previous 25,000 users that he proffered. There was NEVER a fixed weekly return ever. There could not be a fixed return between 5.00% to 9.99% which is a wide range of return that could have been distributed per week. This is inaccurate on purpose by the Receiver to taint the Jury pool. e.g. 5.01%, 5.02%, 5.03%, 6.99%, 6.97%, 7.98%. there is nothing fixed in that range. Mr. Alexandre would like to update the records to reflect the misrepresentations.

Page 11 From the Receiver's own stipulation: "The Database [EminiFX MySQL database] contained a substantial amount of information deemed reliable that assisted the Receiver in attributing most transactions to specific users or purposes."

"The Receiver and his team were able to attribute 99.8% of cryptocurrency withdrawals by transaction count".

All that on the backdrop of "POOR RECORDS" (misleading.)

Page 19 The Receiver received 4,678 phone calls. The results of the destruction of EminiFX.

Page 20 TAXES still not paid. Not even for 2023 under the Receivership extended for October 2024.

Yet, with only nine months, EminiFX is vilified for not paying taxes. Outrageous.

The investors deserve clarity.

WHEREFORE, Mr. Alexandre hereby submits this notice to the Court to review the Application of the eighth status report of Mr. David Castleman, as submitted, to unseal the invoices submitted as exhibits as reference in the affidavits table herein incorporated by reference by compelling the Receiver, court agent, to provide unseal invoices with appropriate redactions. To Terminate and replace the Receiver with a capable and competent Receiver to prepare for transitioning and manage the EminiFX Estate as we deal with the CFTC violations in bringing this instant action under falsehood, misrepresentations and omissions. And, to compel the Receiver to provide GAAP financial reports in lieu of "illustrative" reports proffered to the court during the past 24 months and eight status reports submitted at the costs of millions of dollars to the EminiFX investors.

Respectfully submitted,

DATED: 6 / 10 / 2024


Application DENIED. The Court has reviewed the Receiver's work product and found that it adequately reports the current status of the Receiver's operations, and the fees request is reasonable in light of the complex nature of the work involved. Although Mr. Alexandre holds himself out as the guardian of the EminiFX investors, it is his fraudulent conduct — which he admitted to in his guilty plea in the criminal case — that has forced the fund into a receivership. The Court will not further waste investor funds by requiring the Receiver to engage in further paperwork to satisfy Mr. Alexandre's desires.

SO ORDERED.

07/01/2024



HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE


Eddy Alexandre
Reg. No.: 00712-510
PRO SE REPRESENTATION
FCC Allenwood-Low
P.O. Box 1000
White Deer, PA 17887

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**COMMODITY FUTURES TRADING
COMMISSION,**

Plaintiff,

v.

**EDDY ALEXANDRE and
EMINIFX, INC.,**

Defendants.

Case No.: 22-cv-3822

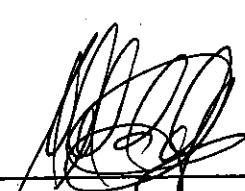
Judge Caproni

CERTIFICATE OF SERVICE

I hereby declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that on this date I caused a true and complete copy of the attached to be served, in placing same in a sealed envelope and routing it for mailing certified, via first class U.S. mail with a return receipt, with postage thereon fully prepaid, a true copy thereof to the following interested party/ies:

The Clerk of Court
United States District Court
Southern District of New York (SDNY)
U.S. Courthouse - 500 Pearl Street
New York, NY 10007

Date: 6/10/2024



Eddy Alexandre, pro per
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LEGAL-MAIL (Open only in the presence
of the imate)